

MINUTES
BOARD OF ADJUSTMENT
December 6, 2007

THOSE IN ATTENDANCE:

Gary Soule, Chairman	Jason Jaggi, Planner
Mel Disney	Kevin O'Keefe, City Attorney
Rick Bliss	
Victor Cohen	
Kevin Williams	

Chairman Soule called the meeting to order at 5:10 p.m., after having indicated that the short delay is to await the arrival of the fifth Board member. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board introduce themselves.

MINUTES

The minutes of the meeting of November 1, 2007 were presented for approval. The minutes were approved, after having been previously distributed to each member.

Chairman Soule indicated that there is only one item to be considered this evening and confirmed the attendance of the applicant. He stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He indicated that a full compliment of the Board consists of five members and that four members must vote in favor of a variance in order for a variance to be granted. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record. He reminded everyone that all testimony is tape-recorded and the minutes produced from this recording. He then asked that all individuals wishing to speak to please speak clearly. He stated that generally, the City will present its exhibits first, after which the applicant will make their presentation, then questions/comments from the Board members will ensue after which audience comments will be solicited and finally, a vote will take place.

APPEAL FROM SAM CHIMENTO, CORNERSTONE PROPERTIES, FOR THE PROPERTY
AT 621 & 625 WESTWOOD

Everyone wishing to speak this evening was sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation, first presenting a slide depicting the subject parcels and their zoning designation.

Jason stated that the properties currently contain one, 6-unit apartment unit each.

Rick Bliss asked if the cross access is by easement.

Jason Jaggi stated he did not believe so. An aerial view of the properties was presented. Jason indicated that the rear of the properties are primarily asphalt and that covered parking is not currently provided. He stated that the buildings currently located at 619, 621 and 625 are almost identical, but that the property at 619 is not included with this project. He stated that Bemis Way, which runs west to east, functions as an alley, but is actually platted as a street.

Site photos of the properties were presented. Jason described the variance requests, indicating that the proposed project triggers several issues with regard to the Zoning Ordinance (each property requires a 5-foot side and rear yard setback as well as coverage limitations). Jason indicated that the project (carport) would not meet the side yard setback down the middle of the two properties nor would it meet the lot coverage maximum as allowed by the Ordinance). He advised the members that the project would, however, provide less coverage than what currently exists.

Chairman Soule asked if the City would like to present its Exhibits.

City Attorney O'Keefe presented the following exhibits with regard to the application. He asked that they be entered into the record on behalf of the City:

- A. City's Code of Ordinances, specifically the Article referencing the Board of Adjustment and Sections 19.8, 19.9.2 and 19.9.3;
- B. Application for Zoning Review submitted by the applicant;
- C. Zoning Review denial letter;
- D. Application for Appeal;
- E. Drawings submitted by the applicant; and
- F. Staff Report.

Chairman Soule indicated that all Exhibits will be received.

Sam Chimento (owner/developer) introduced himself and Mike Kileen, project architect, to the members.

Mr. Kileen presented a site plan to the members. He indicated that they are asking for more coverage than allowed; however, the current paved lot will be turned to greenspace resulting in less coverage. He stated the hardship is the site itself and to provide parking within a structure would be cost prohibitive. He stated the proposed carport will provide covered parking for the tenants and that they are considering a green roof for the project. He stated that the proposal will be a visual improvement to the existing unsightly layout. He stated that the setbacks are also

being violated, but that access to the basement is needed and therefore, are introducing a common area (area well).

Chairman Soule asked if the site plan needs to be introduced as an Exhibit.

Mr. Kileen stated that the site plan was included in their submittal.

Kevin O'Keefe asked the definition of an "area well".

Mr. Kileen stated that it is a concrete retaining wall and stairs.

Kevin O'Keefe commented that no petition for zoning relief for this area well was submitted/requested. He asked the relation of this feature to the carport.

Mr. Kileen indicated that both span across both lots.

Kevin Williams asked if the lots are to be consolidated.

Jason Jaggi replied "no". He advised the members that the Zoning Ordinance only allows one primary building per lot and since they are proposing two separate buildings, the lots cannot be consolidated.

At this time, a discussion regarding the condominium aspect of the project ensued.

Kevin Williams asked if this will be platted as one condominium.

Mr. Chimento replied "yes, most likely".

Chairman Soule stated that the condominiumization aspect of the project is not this Board's jurisdiction.

Kevin O'Keefe commented that the proposed carport spans across the middle lot line, thereby violating a side yard setback on each lot (south side lot line at 621 and north side lot line at 625).

Mel Disney asked if there will be an easement for the one set of stairs.

Jason Jaggi stated that he believes they are attempting to make the buildings appear as one entity.

Mel Disney commented that the one set of stairs will be common to both structures and that either an easement needs to be established or the structures physically tied together.

Chairman Soule reiterated that City Code prohibits consolidating these lots since the project calls for two buildings, each required to be on one lot.

Jason Jaggi stated that an easement could be granted.

Sam Chimento stated that their rationale was to provide a common entrance, which is now 21 feet. He stated that he would prefer to eliminate the area well as it currently exists as it is a hazard.

Kevin O'Keefe stated that the area well is a common area that offers each building access.

Kevin Williams asked if the retaining wall could be moved further to the east and the carport pushed further to the west.

Mr. Kileen replied "maybe".

Kevin Williams asked if the retaining wall is on the property line currently.

Mr. Kileen indicated that it is on or very close to the property line.

Sam Chimento stated he would have to talk with representatives of Ameren UE about the power lines in relation to relocating the retaining wall.

Rick Bliss indicated that the first page of the plans (Sheet AO) states that "...the new structure is to be built on the west property line." He asked if this information is accurate.

Mr. Kileen replied "no". He stated it is their intent to place the building 5 feet off the property line.

Mel Disney asked about the information contained on Sheet A1 (Site Plan) regarding the information about the distance (5'-8") from the property line to the face of the retaining wall.

Mr. Kileen advised the members that the 8 inches includes the footing.

Kevin Williams asked about access to the property.

Mr. Kileen indicated that access is provided from Bemis Way and Westwood.

Mel Disney asked if there is an easement.

Mr. Chimento stated they don't believe there is one; although they previously believed there to be an easement.

Rick Bliss questioned as to why there would not be an easement.

Mr. Chimento stated they cannot find evidence of a recorded easement.

Chairman Soule reminded the members that this issue is not the jurisdiction of this Board.

Kevin O’Keefe agreed. He stated that the stairway situation may very well trigger another variance requirement.

Jason Jaggi asked if the outside stairway is vital to the project.

Mr. Kileen replied “yes”.

Jason Jaggi commented that this petition is for the carport.

Mr. Kileen stated that the staircase is not required per the Building Code and the possibility that it could be reconfigured.

Kevin O’Keefe asked if the access could be relocated to conform to the Zoning Ordinance.

Mr. Kileen replied “yes”.

Mr. Chimento stated that by doing so (relocating access), would reduce the amount of greenspace as currently proposed.

Chairman Soule asked if the current application can be amended by virtue of testimony or would the amendment need to be submitted in writing.

Kevin O’Keefe indicated that it would have to go through the normal application process, but that the witness has testified that they do not need another variance, so either the project needs to be redesigned or the applicant needs to seek relief for another variance.

Chairman Soule suggested that the applicant either withdraw their current request or ask for a continuance.

Kevin O’Keefe indicated that it is not necessary that they withdraw. He stated it would be better if the item was tabled so the issues can be worked out and brought back for consideration at a future meeting.

Mr. Chimento asked if a vote can be taken on the current application.

Kevin O’Keefe indicated that his concern with that is the items are closely related and suggests the project as a whole be considered harmoniously.

Chairman Soule concurred. He stated they are all inter-related and that it would make more sense to consider the entire project as a whole package.

Kevin O’Keefe commented that there is a visitor in the audience who may wish to be heard.

The unidentified woman in the audience indicated that she had no comments.

Mr. Chimento stated that the area well sticks out 42" from the building.

Rick Bliss asked the location of the water drain.

Mr. Kileen indicated it drains to the west to a drain tile and goes underground behind the retaining wall.

Mel Disney noted that it is realized that drainage is not an issue for this Board, but simply a question.

Mr. Kileen stated that they will provide drainage per Code requirements.

Rick Bliss referred to Page 5 of staff's report indicating "Furthermore, the properties cannot provide the required 12 parking spaces for a 6-unit building." He asked Jason to discuss this situation.

Jason Jaggi informed the members that the Zoning Ordinance requires 2 spaces be provided per unit and that they cannot place 12 spaces at the rear of each building. He stated there are many original buildings in Clayton that have one space per unit as this one does. He stated that this request does provide covered, off-street parking. He stated he does not believe that they can provide 2 spaces per unit to meet current code.

Rick Bliss stated that alternatives would be to construct two separate carports with spaces 8 ½' wide versus 9' wide to make up the difference. He asked if the A/C units were located outside and the furnaces in the basement.

Mr. Kileen stated that 621 currently has a boiler and the furnaces are in the basement, but that the remodeled condominiums will each have their own HVAC units.

Chairman Soule asked the applicant if they want a continuance.

Mr. Chimento replied "yes". He stated they will focus on the area well.

Jason Jaggi commented that the area well, if reconfigured/relocated, could impact the impervious coverage.

Chairman Soule suggested the applicant meet with Jason.

Chairman Soule granted the requested continuance.

Being no further business for the Board of Adjustment, this meeting adjourned at 6:10 p.m.

Recording Secretary